GOVERNMENT OF KARNATAKA

SOCIAL WELFARE AND LABOUR SECRETARIAT

Labour Dispute :—Industrial dispute between the Workmen and the Management the of K S.R.T.C. Bellar, Division, Bellary.

Award of the Presiding Officer, Labour Court, Bangalore Published

Read the following papers :—

1. Letter No. 462/79-80, dated 30th June 1979 from Sri M. R. Mujumdar, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, BANGALORE

Dated this 30thday of June 1979.

Present :

Shri M. R. Mujumdar, B.A. (HONS), LL.B.,
Presiding Officer,

Reference No. 207 of 1978

First Party.—

K. Doddabasappa, Ex-Conductor, Post No. 10, Muddapura Taluk, Hospet, Bellary District.

—*Vs*—

Second Party.—

The Management of the K. S. R. T. C., Bellary Division, Bellary (By Deputy General Manager & Divisional Controller, Bellary Division)

Reference :—Government Order No. SWL 925 LLD 77, dated 17th December 77.

AWARD

1. The Government of Karnataka by order No. SWL 925 LLD 77 dated 17th December 1977, have referred the following Points of Dispute for adjudication to the Labour Court at Bellary.—

"1. Whether the management of the KSRTC Bellary Division, are justified in dismissing the services of Sri K. Doddabasappa, Ex-conductor, with effect from 29th October 1976 ?

2. If not, to what relief the said workman is entitled ?

2. The Reference was registered at Labour Court, Bellary as I.D. No. 1 of 1978. The I Party filed his claim statement on 6th February 1978 contending that he was appointed as a Conductor in the II Party corporation in 1965 and had been dismissed from service

in January, 1969 and on an appeal of his, he was reappointed from 5th March 1969. His services were again terminated in August, 1972, for misconduct and unauthorised absence but he was reinstated by the appellate authority from 13th December 1973. As a result of this the management was harassing him and when he was on duty in the bus from Hospet to Havanur on 24th November 1974, a charge memo was issued to him by the checking staff and he was kept under suspension from 2nd December 1975. An enquiry was held after issuing charge-sheet to him. At the time of personal hearing the enquiry officer assured him that no serious action would be taken against him if he pleads guilty and only a minor punishment would be imposed and being influenced by this the I Party signed the enquiry proceedings on 17th March 1976. Thereafter the suspension order was revoked from 2nd April 1976 and he resumed duty thinking that the disciplinary proceedings were over. After 6 months, the II Party issued an order on 2nd November 1976 discharging him from service with effect from 29th October 1976. His demand to the management and the conciliation proceedings ended in failure. The enquiry is vitiated as no second show cause notice proposing the punishment, was served upon him; the Depot Manager was not competent to hold the enquiry and the action of the management is against the rules of natural justice. On these grounds the I Party has claimed that he be reinstated with full back wages and other benefits.

3. The II Party-K. S. R. T. C., filed objections on 17th March 1978 giving therein the service history of the I party and contending that as he was found indulging in pilferage, disciplinary action was taken against him, and an enquiry observing all formalities according to regulations and the principles of natural rusties, was held and the I Party was found guilty of the charge. He was therefore, terminated from service with effect from 29th October 1976. During the enquiry, the I Party voluntarily pleaded guilty and the enquiry officer accepted the same. The Depot Manager was quite competent to hold the enquiry. There are no merits in the claim and the same deserves to be dismissed.

4. In the Labour Court at Bellary, the fairness and propriety of the domestic enquiry. was heard as a preliminary issue and it has been held to be fair and proper by order dated 29th May 1978. This order has not been challenged by the I Party.

5. Thereafter the Government vide Notification No. SWL 73(2) LLE 78 dated 20th June 1978 the proceedings of this case were transferred to this Court and on receipt of records, the same was registered as Reference No. 207 of 1978 and notices were issued to the parties for further hearing.

6. Though the I Party, thereafter, wanted to lead evidence he did not adduce any evidence. On 23rd March 1979 the I Party with

his representative was present and none for the II Party was present. The learned representative for the I Party workman addressed arguments and also requested time to produce service regulations and authorities. On 13th April 1979, he produced written arguments, service rules of K. S. R. T. C. and one authority. The II Party or ats representative was not present.

7. The misconduct alleged against the I Party Conductor in this ɔoase, was that he was conductor in Bus No. 2471 on 24th November 1975 and when the bus was travelling from Guttal to Havanur, was Checked near Havanur and it was found that though the Conductor had collected fare from 9 passengers he had not issued them requisite tickets of 0 70 ps each at boarding point and further 12 persons were travelling from Tuttal to Havanur without ticket and the I Party-conductor had neither collected the fare nor issued the tickets of 0.70 ps. (Ex. R. 2). The checking staff recorded the statements of some of the passengers as per Ex. R. 4 in the presence of the I Party conductor and also obtained his signature on Ex. R. 4. The checking staff got tickets issued to the above said passengers which are produced at Ex. R. 3. During the enquiry the I party Conductor, while being questioned by the Enquiry Officer on 17th March 1976, admitted that he had committed misconduct and prayed for mercy. He did not raise any objection regarding the enquiry nor did he desire to produce in evidence on his behalf. Relying on his admission of guilt the enquiry officer, found him guilty of the charge (Ex. R. 13). The Enquiry Officer (Depot Manager-A, Hospet) felt that the misconduct warranted action beyond his competency and therefore, the case was referred to the Deputy General Manager and Divisional Controller, K. S. R. T. C., Bellary Division, who passed the order of discharge Ex. R. 13. As noted above the domestic enquiry has been held to be fair and proper.

8. The main contentions urged for the I Party are that the standing Orders of the erstwhile M. G. R. T. D. are still applicable to the I Party workman, whereas the enquiry was conducted as per the M.S.R.T.C. Servants (Conduct and Discipline) Regulations, 1971, and therefore, the enquiry and the findings and the action taken thereon are all illegal and void, and further that even according to the said regulations the procedure followed in the enquiry was not proper, especially Regulation No. 26 was not followed in as much as the orders made by the disciplinary authority together with copy of finding, was not communicated to the I Patty. It is also contended that the punishment imposed is too harsh.

9. The K. S. R. T. C. Servants (Conduct and Discipline) Regulations, 1979, are framed by the Corporation in exercise of the powers conferred by Sections 14 and 45 of the Road Transport Corporation Act, 1950, and the same was approved by the Government of Karnataka under Sec. 45 of the Road Transport Corporation Act,

1950, by Order No. HD 109 TRE 71 dated 15th March, 1972. The domestic enquiry against the I Party was conducted in accordance with these Rules and at that time was not at all contended by the I Party that the said Regulations are not at all applicable to him or that the Standing Orders of the erstwhile M. G. R. T. D. still hold good. Further the Labour Court at Bellary considered the domestic enquiry, which is held according to the said Regulations, and has held that the enquiry so help is fair and proper and valid. The I Party, cannot, therefore, now contend that the said regulations are not applicable to him and that therefore, the enquiry is vitiated.

10. During the enquiry 1 Party himself admitted his mistake and prayed for mercy and the enquiry officer accepted the plea of guilt and based his findings upon the same. Regulation 23rd deal with the procedure for imposing major penalties and clause (9) of Regulation 23 lays down that if the deliquent pleads guilty of any of the charges, the inquiring authority shall record the plea, sign the record and obtain the signature of the delinquent thereon. Clause (10) of the said Regulation 23 states that the inquiring authority shall return a finding of guilt in respect of those charges in respect of which the Corporation servant pleads guilty. In this, case, as seen above, the I Party workman pleaded guilty of to the charge on 17th March 1976 and prayed for mercy. The same is recorded by the Enquiry Officer and it is signed by the Enquiry Officer as well as the I Party workman K. Doddabasappa. The finding of the Enquiry Officer is bassed on this plea of guilt made by the I Party workman. His grievance is not that he did not plead guilty but he contends that the Enquiry Officer assured him that only a minor penalty would be imposed on him and therefore, he pleaded guilty. The I Party workman did not adduce any evidence in support of this contention. He did not even examine himself to say so. This contention is therefore, simply an after thought and an untenable one at that.

11. The learned representative for the I Party sought support from the ruling of the Gujarat High Court in Navinchandra Shakerchand Shah Vs Ahmedabad Co-operative Department Stores Ltd. (reported in 1978 I LLN 242). The facts of that case are quite difference. The werker therein was a helper in a cooperative stores and was found to have weighted to a customer more quantity of wheat than was billed for and it was held therein that it did not amount to labitual negligent of work or gross neguigence: The facts of this case are quite different and the said authority does not, therefore, help the 1 party workman.

12. It view of the above facts, it cannot be said that the finding recorded by the Enquiry Officer is in any way not based on evidence or is perverse. I do not, therefore, see any reason to interfere with the same under Sec. 11A of the Industrial Disputes Act. The charge against the I Party workman being pilferage of the

Corporation funds by collecting fare from the passengers and not issuing them necessary tickets. I do not feel that there is any ground to disturb the punishment of discrarge from service imposed on the I party workman.

13. For all these reasons, I hold that the II Party Corporation was justified in terminating the services of the I Party with effect from 29th October 1976 The I Party workman Sri K. Doddabasappa is not entitled to any relief in this Reference. In the circumstances of the case, parties are to bear their own costs.

M. R. MUJUMDAR,
Presiding Officer,
Labour Court, Bangalore

Order No. SWL 221 LLA 79.

Bangalore, dated 24th/25th July 1979

Whereas by State Government Order No. SWL 925 LLD 77, dated 17th December 1977 the Industrial dispute between the workmen and the Management of Karnataka State Road Transport Corporation, Bellary Division, Bellary, was referred to the Labour Court, Bangalore for adjudication.

And Whereas the Presiding Officer, Labour Court, Bangalore has submitted to the State Government its Award in respect of the said Industrial Dispute.

Now, Therefore in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Karnataka are pleased to direct the publication of the said Award as above, in the *Karnataka Gazette.*

By Order and in the name of the Governor of Karnataka,

J. PILLAPPA,
Desk Officer,
Social Welfare and Labour Department.
(Labour-A)

1677—S.O. 2103

Order No. SWL 579 LLD 79

Bangalore, dated 16th August 1979.

Whereas the management of Bangalore Water Supply and Sewerage Board, Bangalore and the workmen of the said management have applied to the Government Jointly in the prescribed manner for reference of the Industrial Dispute existing between them on the points noted below to the Industrial Tribunal Bangalore for adjudication;